

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 9, 2001 at 9:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. James Whitaker (R)

Members Excused: Rep. Bob Lawson (R)
Rep. Brett Tramelli (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB436, HB489, HB490, HB504,
2/6/2001
Executive Action: HB413, HB499, HB500, HB504,
HB436

HEARING ON HB436

Sponsor: REP. ROGER SOMERVILLE, HD78, Kalispell

Proponents: Aidan Myhre, Montana Chamber of Commerce

Opponents: Mark Staples, Montana Tavern Assn.

Patrick Montalban, Montana Liquor Store Owners

Kristi Blazer, Montana Beer & Wine Wholesalers

Rich Miller, Gaming Industry Assn.

Jackie Thomas, Store #170, Krisco Liquor, Missoula

Bill Hanna, Laurel Liquor Store

Shane Farnsworth, Store # 3, Billings

Don Meyer, Store # 1, Helena

Tim Dalin, East Helena and Helena Stores

Opening Statement by Sponsor:

REP. ROGER SOMERVILLE, HD78, Kalispell, said he brought this bill to the committee at the request of one of his constituents. The bill allows the liquor store to be open when the owner prefers. He noted liquor can be sold in bars on Sundays and holidays. The bill also eliminates language saying a liquor store cannot be located adjacent to a grocery store.

Proponents' Testimony:

Ms. Myhre said the bill provides a level playing field for liquor store owners. She said the bill allows the stores to sell liquor when the public needs it. She testified the bill will result in increased revenue for cities, towns and the state.

Opponents' Testimony:

Mr. Staples said these provisions which the bill wanted to change were in the liquor laws because the members of his organization wanted them in there. He said the law makes the attempt to keep the liquor stores and grocery stores separate with the exception of a store being the only store in town. He also said it is nice for the stores to have one day off a week and to let the bars be open one day when the case lot stores were not open.

Mr. Montalban testified there are 98 stores around the state and the small stores need a day off, or they would have to hire more people. He said it is better for liquor not to be sold in grocery stores because it is more intimidating to buy it in state stores. That is a deterrent to minors trying to buy liquor, he said.

Ms. Blazer said it is a Montana policy to not sell liquor in grocery stores and to limit the hours of liquor stores.

Mr. Miller opposed the bill because he felt it increased the availability of liquor to minors. He said if a liquor store loses its license the whole business closes down. If a grocery store loses their alcohol license they sell something else in its place.

Ms. Thomas said liquor store owners have a responsibility to their customers to know the ingredients of their merchandise and also bear the responsibility of identifying underage customers.

Mr. Hanna told the committee there are only so many liquor dollars available in Laurel and being open 6 days instead of 5 will only raise his costs, not his revenue.

Mr. Farnsworth, Mr. Meyer, and Mr. Dalin also opposed the bill.

Informational Witness: **Shanna Bingham, Department of Revenue,** said she was available for questions.

Questions from Committee Members and Responses:

REP. LAIBLE asked **REP. SOMERVILLE** since the tavern owners were concerned about the additional cost to the liquor stores, would the bill require the stores to be open additional time. **REP. SOMERVILLE** said no, the stores could be open when they wanted to.

REP. BOOKOUT-REINICKE asked **Ms. Thomas** if she would be forced to open on Monday. **Ms. Thomas** said, "It is in our best interest to keep the law the way it is. My bread and butter is from the tavern owners," she said.

Closing by Sponsor:

REP. SOMERVILLE presented a public opinion poll on the topic. **EXHIBIT (buh33a01)** He said the poll shows a split opinion and is not conclusive.

HEARING ON HB489

Sponsor: **REP. BILL PRICE, HD94, Lewistown**

Proponents: **Evan Barrett, Montana Economic Development Assn.
Montana Ambassadors**

Butte-Silver Bow Development Council
Gene Vuckovich, MT RDP
Lynn Robson, Gateway Economic Development Corp.

Opponents: None

Opening Statement by Sponsor:

REP. BILL PRICE, HD94, Lewistown, told the committee the bill pertains to the infrastructure investment program and allows tax credits received under the program to be sold at discount, not to exceed 5%. Under the current law, the loan must be made to a local business to create necessary infrastructure. The local government receiving the loan may charge fees to the users of the infrastructure. A business created or expanded as the result of the loan is entitled to a credit against taxes, but the total amount of tax credit may not exceed the loan. This bill allows the business to sell their tax credit at a discount to companies who can use them. Often new businesses do not have a tax liability and are in greater need of cash.

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Proponents' Testimony:

Mr. Barrett said the loan program has been used several times by his association and the current bill improves the program. He said when he markets the program around the state, it is not as viable as it should be because often a business cannot use the tax credit for the next five years so the tax credit is not an incentive. He said the tax credit being marketable is the key. He said when a business purchases the tax credit at 95% of value the owner of the tax credit has 95% of their cash flow restored. He presented letters of support from the Anaconda Local Development Corporation and Montana Economic Developers Association.

EXHIBIT (buh33a02) EXHIBIT (buh33a03)

Mr. Vuckovich called the bill an innovative and useful tool. He presented written testimony. **EXHIBIT (buh33a04)**

Mr. Robson expressed his support and presented written testimony. **EXHIBIT (buh33a05)**

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. GALLIK said he thought it sounded like a good idea and asked **REP. PRICE** where a business would go to get these loans. **REP. PRICE** said a local CPA would know where to go. **REP. GALLIK** asked

if there was a provision for brokers' commission. **REP. PRICE** said the tax credit does not provide for the brokerage concept at all, and says the bill may be sold at no more than a 5% discount. **REP. GALLIK** asked if a brokerage could work within the 5%. **REP. PRICE** said a phrase could be added to protect against that,

Closing by Sponsor:

REP. PRICE closed the hearing by presenting the committee a written explanation of the bill. **EXHIBIT (buh33a06)**

HEARING ON HB490

Sponsor: **REP. BILL PRICE, HD94, Lewistown**

Proponents: **Carroll South, Board of Investments**
Evan Barrett, Montana Economic Development Assn.
Montana Ambassadors
Butte-Silver Bow Development Council
Gene Vuckovich, Montana Rural Development Program
Lynn Robson, Gateway Economic Development

Opponents: None

Opening Statement by Sponsor:

REP. BILL PRICE, HD94, Lewistown, said this bill creates an Intermediary Re-lending Program within the Montana Board of Investments. The bill proposes a \$5 million pool to be loaned in amounts not to exceed \$500,000 at a 2% rate for 30 years. The loans are to be made to eligible and qualified local economic development organizations. The bill also authorizes the Board of Investments to purchase a portion of seasoned, mature loans from a local economic development organization's loan program.

Proponents' Testimony:

Mr. South said the legislature had adopted a resolution encouraging the Board of Investments to increase their loans to \$500,000 from the Coal Trust. He said it is good to get the Coal Trust invested. He also said the Board of Investments would be happy to purchase the seasoned loans of the local development corporations.

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Mr. Barrett presented a chart showing the leverage value of the re-lending program. He noted at the end of the program there would still be lending capital because of the rollover of funds.

EXHIBIT (buh33a07) He explained that through the purchase of seasoned loan portfolios the program has the ability to lend more money. He presented letters from the Lake County Community Development Corporation and the Montana Economic Developers Association. **EXHIBIT (buh33a08)** **EXHIBIT (buh33a09)**

Mr. Vuckovich presented his written testimony in support of HB490. **EXHIBIT (buh33a10)**

Ms. Robson said she supported the bill and thought it would give one more tool to the areas of Montana experiencing layoffs. She presented written testimony. **EXHIBIT (buh33a11)**

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. BITNEY asked **Mr. Barrett** if this money was for start-up or for expansion businesses. **Mr. Barrett** said job creation or retention is the issue. He noted that start-up businesses represent the minority and expansion businesses are the majority. An expansion example would be a company that needs a new warehouse. He noted that in the case of job retention, it is often easier to save a job than to create a job. **REP. BITNEY** asked what had been the percentage of defaults. **Mr. Barrett** replied that out of 50 loans, they had maybe two problem ones.

REP. BROWN noted the chart said 2700 jobs could be created with these funds, but he asked if these would be created by driving other businesses out through unfair competition with 2% loans.

Mr. Barrett said they take the competitive issue into their analysis, He said there is no benefit to hurting one to help another. A basic criteria is to not give competitive advantage to one business over another, he said. The focus is to bring new money into the community.

REP. GALLIK asked **Mr. Barrett** what was the criteria on the jobs created relating to benefits and pay. **Mr. Barrett** said there was no benefit in helping one business if it hurt another. He said a basic criteria was not to give a business a competitive advantage over another. He said the focus is on bringing new money into the community.

REP. JUNEAU asked **REP. PRICE** said on the fiscal note that the tax revenue could increase if jobs were created. She said that seemed

like it should be a requirement, not an "if." **REP. PRICE** replied that assuming the loans were sound, there would be an increase in jobs.

Closing by Sponsor:

REP. PRICE said this bill accomplishes job creation in our state and he urged them to pass it.

HEARING ON HB504

Sponsor: **REP. DAVE GALLIK, HD52, HELENA**

Proponents: Jan Van Riper, State Auditor's Office
Roger McGlenn, Independent Insurance Agents of Montana
Ron Ashabrenner, State Farm
Susan Witte, Blue Cross Blue Shield
Don Allen, Montana Benefits and Life
John Metropolous, Farmers Insurance and NAII

Opponents: None

Opening Statement by Sponsor:

REP. DAVE GALLIK, HD52, Helena, told the committee this was a housekeeping and revision bill requested by the State Auditor's office and asked **Ms. Van Riper** to explain the bill to the committee.

Proponents' Testimony:

Ms. Van Riper said this was a general revision bill which was part housekeeping and part change. She said in drafting the changes they had sent the bill out to members of the industry and if there were objections, amendments had been done. She said her office had wanted the bill to be completely non-controversial. She presented an 8 page summary of the 65 page bill.

EXHIBIT (buh33a12) She then discussed the changes section by section.

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Mr. McGlenn told the committee he had seen the bill well in advance and his comments had been taken into consideration. He said he was in support of the bill.

Mr. Ashabrenner said he supported the bill.

Ms. Witte supported the bill and thanked the Auditor's Office for gathering the groups together.

Mr. Allen said he appreciated the effort made at bringing people together on the bill and said he supported it.

Mr. Metropolous stated he supported the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE asked **Ms. Van Riper** since they were no longer handling service contracts except for motor clubs, if there would be a reduction in full time employees. **Ms. Van Riper** said there would not be a reduction because the Department of Commerce had gotten a full time employee to handle and deal with service contracts like Whirlpool and Sears.

REP. BROWN said he was not trying to be suspicious but when he saw a bill this thick he wondered what was in it. He asked **Ms. Van Riper** what she would consider to be the most controversial element. She replied it is not controversial and that is why they met to work it out.

Closing by Sponsor:

REP. GALLIK thanked the State Auditor's Office and members of the industry for their time working on this legislation which would provide a better place for Montanans to live, work and play.

EXECUTIVE ACTION ON HB413

Motion: **REP. BROWN** moved that **HB413 DO PASS.**

Discussion:

Motion: **REP. BROWN** moved that **HB413 BE AMENDED.**

Discussion:

Mr. Higgins said the amendment re-writes and clarifies the conscience clause. He said the language was taken from other states' existing law. He said the amendment requested that other

pharmacists be available to fill prescriptions and that the pharmacists may not be discharged for refusing to fill prescriptions.

REP. GALVIN-HALCRO asked **REP. BROWN** if, when it refers to filling a prescription, if they did not believe in using birth control pills could they refuse to do that. **REP. BROWN** said he did not think that was the intent. He said basically the RU-46 pill was what the bill was written for, should it be allowed, and also for drugs dealing with assisted-suicide.

REP. GALVIN-HALCRO noted that RU-46 was not available today and there the bill was a big "what if." **REP. BROWN** said he understood what she meant and that he felt the pill would be in the pharmacies in a short time. He said since the legislature only meets once every two years this could be a problem before the next session. He said he had received numerous letters from pharmacists who would like this bill.

REP. LAIBLE asked **REP. BROWN** if the bill was intended for RU-46 and euthanasia drugs, why they were not included in the bill.

REP. BROWN said the medical industry is moving quickly and it is difficult to specify specific drugs in a bill.

Vote: Motion **HB413 BROWN AMENDMENT** carried 13-6 with Fritz, Gallik, Galvin-Halcro, Keane, Lawson, and Musgrove voting no.

Motion: **REP. BROWN** moved that **HB413 DO PASS AS AMENDED.**

{Tape : 3; Side : B; Approx. Time Counter : 0}

Discussion:

REP. LAIBLE said he opposed the bill as too broad.

REP. ROME said he supported the bill. "I would hate to have some one come in my business, and tell me I had to sell something I was ethically opposed to," he said.

REP. BOOKOUT-REINICKE said she supported the bill because she thought small store owners did not have to stock "this stuff" if they did not want to, but that pharmacists at big chains might not have the same choice. "These pharmacies have control over these people's lives," she said. She called it a bill for employees at big chains.

REP. GALLIK said he opposed the bill from the perspective that many rural areas have no pharmacies and people there do not

always have the choice of getting prescriptions in a timely fashion. Furthermore, he called the bill too broad.

Vote: Motion that **HB413 DO PASS AS AMENDED** failed 7-12 with Bitney, Bookout-Reinicke, Brown, Himmelberger, Rome, Steinbeisser, and Whitaker voting aye.

Motion/Vote: REP. BROWN moved that **HB413 BE TABLED**. Motion carried 12-7 with Bitney, Bookout-Reinicke, Brown, Himmelberger, Rome, Steinbeisser, and Whitaker voting no.

EXECUTIVE ACTION ON HB504

Motion: REP. GALLIK moved that **HB504 DO PASS**.

Discussion:

Motion/Vote: REP. GALLIK moved that **HB504 BE AMENDED**. Motion carried unanimously. Voice Vote.

Motion: REP. GALLIK moved that **HB504 DO PASS AS AMENDED**.

Discussion:

REP. HIMMELBERGER said he felt a responsibility to his constituents to be wary of such a big bill and it took a lot of trust on his part to vote for it.

REP. MATTHEWS said he felt the same way but when he saw lawyers and lobbyists on the same side, he had to have trust.

REP. GALLIK stated he used to work at the State Auditor's office. He said the preparation of a bill like this takes 18 months and tries to find better ways to serve the people of Montana. He noted that if there had been any objections from the industry, they had been pulled out.

REP. PRICE noted independent insurance agents all over the state had been represented in the preparation of this bill.

Vote: Motion **HB504 carried unanimously**. Voice vote.

EXECUTIVE ACTION ON HB499

Motion/Vote: REP. MATTHEWS moved that HB499 DO PASS. Motion carried unanimously. Voice Vote.

EXECUTIVE ACTION ON HB500

Motion: REP. KEANE moved that HB500 DO PASS.

Discussion:

Motion: REP. GALLIK moved that HB500 BE AMENDED.

Discussion:

Mr. Higgins said the amendment clarified the construction contract.

Vote: Motion carried unanimously.

Motion: REP. KEANE moved that HB500 DO PASS AS AMENDED.

Discussion:

REP. LAIBLE said he was in opposition to the bill and was not sure the current law was broken. "I don't see how this bill will create more jobs," he said. H stated it was putting wages into a rule-making process.

REP. KEANE said he had worked a good part of his life under the prevailing wage and he thought this was a good bill. He said, "If we don't act, we won't have to worry about good workers, because we won't have them." He said the workers will exit Montana if this bill is not passed.

REP. MUSGROVE said there was an issue in Great Falls this bill would have solved.

REP. GALLIK said he did not see the bill as anti-business. He noted the biggest contractors in Montana said it was a good bill.

CHAIRMAN MCKENNEY said he opposed the bill for the same reason as REP. LAIBLE. He said the committee had heard from proponents and opponents that the new provisions would be in rule-making.

Vote: Motion carried 10-9 with Bitney, Brown, Himmelberger, Laible, McKenney, Price, Rome, Steinbeisser, and Whitaker voting no.

EXECUTIVE ACTION ON HB436

Motion: REP. HIMMELBERGER moved that HB436 DO PASS.

Discussion:

Motion/Vote: REP. MATTHEWS moved that HB436 BE TABLED. Motion carried 17-2 with Himmelberger and Laible voting no.

ADJOURNMENT

Adjournment: 11:40 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh33aad)